OLR Bill Analysis

HB 5610

AN ACT CONCERNING THE DUTIES OF A PHARMACIST WHEN FILLING A PRESCRIPTION USED FOR THE TREATMENT OF EPILEPSY OR PREVENTION OF SEIZURES.

SUMMARY:

This bill prohibits retail pharmacists from substituting any alternative for a drug prescribed to treat epilepsy or prevent seizures without the prior written approval of the prescribing practitioner. The law already permits a prescriber to tell a pharmacist not to substitute a generic name drug for any brand name one.

EFFECTIVE DATE: October 1, 2011

BANNING SUBSTITUTIONS FOR ANTI-EPILEPTIC DRUGS

The bill bans certain pharmacists, without the prescriber's written consent, from (1) substituting another brand name or generic name drug product or drug formulation for the prescribed drug or (2) filling the prescription with a product from a different manufacturer or distributor. It applies to new and renewal prescriptions that contain an International Classification of Diseases statistical code indicating the drug is used to treat epilepsy or prevent seizures.

The ban applies to community pharmacies, hospital pharmacies that serve employees and outpatients, and mail order pharmacies licensed to distribute drugs in Connecticut. It does not apply to pharmacies (1) in long-term care facilities, such as nursing homes, chronic disease hospitals, and intermediate care facilities for people with mental retardation; (2) serving hospital in-patients; and (3) in other institutions.

The bill requires the pharmacist to notify the prescriber by email or fax to obtain consent. If the prescriber does not consent, the pharmacist must fill the prescription without substitution or return it to the patient

or his or her representative for filling at another pharmacy.

If, after making reasonable efforts, a pharmacist cannot contact the prescriber, he or she may refill a prescription with a 72-hour supply if, in his or her professional judgment, failure to do so might interrupt the patient's therapeutic regimen or cause the patient to suffer. When dispensing the refill, the pharmacist must tell the patient or the patient's representative that the prescriber did not authorize it and inform the prescriber that he or she must authorize future refills. The pharmacist may refill a prescription this way just once.

BACKGROUND

Drug Substitution

Under existing law, which the bill does not change, a prescriber may tell a pharmacist not to substitute a generic name for any brand name drug. The prescriber must do this by writing "Brand Medically Necessary" on the prescription form or, if the prescriber calls in the prescription or electronically transmits it in a way that does not reproduce his or her handwriting, by stating so on the communication. For Medicaid, State-Assisted General Assistance, and ConnPACE clients, the prescriber must (1) specify why the name brand and dosage are medically necessary and (2) send the "brand medically necessary" certification to the pharmacist in writing within 10 days if it was not on the prescription form. This law applies to all pharmacies.

COMMITTEE ACTION

Public Health Committee

Joint Favorable
Yea 26 Nay 0 (03/14/2011)